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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,

Case No.: CR 09-00717 JF

12 Plaintiff,

**STIPULATION TO CONTINUE  
HEARING AND EXCLUDE TIME;  
{PROPOSED} ORDER**

13 v.  
14

15 MARCO BARBOSA; MARIA BARBOSA,

Honorable Jeremy Fogel

16 Defendants.  
17 \_\_\_\_\_/

18 Defendants Marco and Maria Barbosa and the government, through their respective counsel,  
19 hereby stipulate that, subject to the Court's approval, the hearing in the above-captioned matter,  
20 presently scheduled for Thursday, December 2, 2010 at 9:00 a.m., be continued to Thursday,  
21 December 9, 2010, at 9:00 a.m. The parties, including the Barbosas, attended a settlement  
22 conference on November 30, 2010. The continuance is requested because the defense requires  
23 additional time for preparation, in order to address issues raised by the Barbosas regarding  
24 settlement. Additionally, Mr. Barbosa apparently misunderstood that he still had a court appearance  
25 on December 2, and instead believed that the settlement conference would be his only court  
26

STIP. TO CONTINUE;  
[PROPOSED] ORDER  
No. CR 09-00717 JF

1 appearance this week. He accepted a long-haul truck driving job and is currently in Yuma, Arizona.

2 The parties further agree that time should be excluded under the Speedy Trial Act because the  
 3 ends of justice served by granting the requested continuance outweigh the interest of the public and  
 4 the defendant in a speedy trial. The failure to grant the requested continuance would deny defense  
 5 counsel reasonable time necessary for effective preparation, taking into account the exercise of due  
 6 diligence, and would result in a miscarriage of justice. The parties therefore stipulate that this  
 7 exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

8 Dated: 12/1/10

/s/  
 LARA S. VINNARD  
 Counsel for Marco Barbosa

10 Dated: 12/1/10

/s/  
 PETER LEEMING  
 Counsel for Maria Barbosa

12 Dated: 12/1/10

/s/  
 EUMI CHOI  
 Assistant United States Attorney


### 15 **[PROPOSED] ORDER**

16 The parties have jointly requested a continuance of the hearing set for Thursday, December 2,  
 17 2010, to allow additional time for defense preparation and investigation, and for continuity of  
 18 counsel. GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the hearing date presently  
 19 set for Thursday, December 2, 2010 at 9:00 a.m., be continued to Thursday, December 9, 2010, at  
 20 9:00 a.m.

21 Accordingly, for good cause shown, the Court HEREBY ORDERS that time be excluded  
 22 under the Speedy Trial Act from December 2 to December 9, 2010. The Court finds, based on the  
 23 aforementioned reasons, that the ends of justice served by granting the requested continuance  
 24 outweigh the interest of the public and the defendant in a speedy trial. The failure to grant the  
 25 requested continuance would deny defense counsel reasonable time necessary for effective  
 26

1 preparation, taking into account the exercise of due diligence, and would result in a miscarriage of  
2 justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C.  
3 §§ 3161(h)(8)(A) and (B)(iv).

4 Dated: 12/3/10

  
JEREMY FOGEL  
United States District Judge